

Arbuckle's analysis is well-reasoned and fully supported by the record and applicable law. Accordingly, **IT IS ORDERED THAT:**

- 1) The report and recommendation, Doc. 32, is **ADOPTED** in its entirety.
- 2) The Lackawanna County Defendants' motion to dismiss, Doc. 18, is **GRANTED IN PART AND DENIED IN PART**, as follows:
 - a. Count I, 42 U.S.C. § 1983 excessive force/failure to protect, is dismissed against Defendants Lackawanna County, Lackawanna Prison Board, Lackawanna County Board of Commissioners, and John Does I–V in their official capacity. This count will proceed against John Does I–V in their individual/personal capacity only.
 - b. Count II, 42 U.S.C. § 1983 *Monell* liability, will proceed in its entirety.
 - c. Count III, Assault, is dismissed against Defendants Lackawanna County, Lackawanna Prison Board, Lackawanna County Board of Commissioners, and John Does I–V in their official capacity. This count will proceed against John Does I–V in their individual/personal capacity only.
 - d. Count IV, Battery, is dismissed against Defendants Lackawanna County, Lackawanna Prison Board, Lackawanna County Board of Commissioners, and John Does I–V in their official capacity. This count will proceed against John Does I–V in their individual/personal capacity only.
 - e. Count V, Intentional Infliction of Emotional Distress is dismissed against Defendants Lackawanna County, Lackawanna Prison Board, Lackawanna County Board of Commissioners, and John Does I–V in their official capacity. This count will proceed against John Does I–V in their individual/personal capacity only.
 - f. Count VI, Negligence, is dismissed in its entirety.

- g. Count IX, Wrongful Death, will proceed in its entirety.
- h. Count X, Survival Action, will proceed in its entirety.
- i. The punitive damages claims against Defendants Lackawanna County, Lackawanna County Prison Board, Lackawanna County Board of Commissioners, and John Does I–V in their official capacities are dismissed.

s/Jennifer P. Wilson
JENNIFER P. WILSON
United States District Court Judge
Middle District of Pennsylvania

Dated: July 18, 2022